

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SHERMAN SMALLWOOD,

Plaintiff,

vs.

Civil Action 2:08-CV-679
Judge Sargus
Magistrate Judge King

TERRY COLLINS, Director, Ohio
Department of Rehabilitation
and Corrections, et al.,

Defendants.

ORDER

Defendants filed an answer to the complaint on February 2, 2009, and included in that pleading a certification that a copy of the answer would be mailed to plaintiff, a state prisoner. Doc. No. 20. On February 24, 2009, plaintiff filed a motion for an order to show cause, asking that defendants be required to show cause why an answer had not been properly filed and their default should not be entered. Doc. No. 24. Plaintiff based his motion on the fact that he had not received a mailed copy of the defendants' answer. *Id.* On February 25, 2009, the United States Magistrate Judge denied plaintiff's motion, noting that the answer had been timely filed. Order, Doc. No. 25. This matter is now before the Court on plaintiff's motion to reconsider that order. Doc. No. 26.

To the extent that plaintiff's motion for an order to show cause addressed a non-dispositive matter, the Magistrate Judge's order is neither clearly erroneous nor contrary to law. See 28 U.S.C. §636(b). To the extent that plaintiff's motion for an order to show cause addressed, as plaintiff contends, a dispositive matter, the Court, having reviewed *de novo* the motion and the Magistrate Judge's order, concludes that plaintiff's objections are without merit. *Id.*

Plaintiff's motion for reconsideration, Doc. No. 26, is therefore **DENIED.**

3-6-2009

Date


Edmund A. Sargus, Jr.
United States District Judge